

**BROWNING PROPERTY  
STATEMENT OF JUSTIFICATION  
for  
PRIVATE STREET TO PRIVATE STREET WAIVER  
[see sketch attached]**

**CEDAR RUN DISTRICT**

**December 30, 2008**

**INTRODUCTION**

This Statement of Justification for a private street to private street waiver is submitted by Owner/Applicants, James L. Browning and Elsie M. Browning ("Applicants"), in conjunction with their application for an Administrative Subdivision and Family Transfer of property they own located at 11412 Eskridges Lane, Fauquier County, Virginia. The subject parcels in the Cedar Run Magisterial District, Fauquier County, Virginia (the "Property") and current parcel identification numbers are:

<b>Parcel Identification No. (P.I.N.)</b>	<b>Area (acres)</b>	<b>Address</b>
7828-69-9862-000	15.0712	11412 Eskridges Lane
7828-79-6337-000	6.0037	11412 Eskridges Lane

**Rationale**

The Fauquier County Subdivision Ordinance, at Section 7-302(1)(A)(2) states:

The private street must connect directly to a state maintained street. In reviewing applications for a waiver of this limitation, the Board may consider as an additional factor in granting such a waiver the development limitations which are imposed on the subject property because the proposed division is either (1) a family transfer pursuant to section 2-39 of the Fauquier County Subdivision Ordinance, or . . . .

And further, at Section 7-302(2), states:

The Board may modify the foregoing limitations in conjunction with a request for a special exception permit, site plan approval or subdivision plan approval provided the applicant can show that no alternative is realistically feasible, that plausible alternatives have been exhausted, that to not so modify the applicable limitation would place

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an unreasonable restriction on the use of the property and that the properties through which the right of way will pass will not be unreasonably affected.

### **Private Street to Private Street Waiver Requested**

The subject properties are comprised of two lots of 21.0749 acres in total and are under the ownership of the applicants. Currently one house is located on each lot. These residences are occupied by the two daughters of the applicants. The applicants desire to create three lots out of the property by vacation of the current boundary line between them and creation of one administrative subdivision lot, Lot 2B, (11.0749 acres), a family transfer lot, Lot 2A, (3.9963 acres), which actions will result in the residue lot, the Residue, (6.0037 acres). The applicants intend to convey the Residue and Lot 2B to each of their daughters respectively. In order to access Lot 2B, the administrative subdivision lot, and Lot 2A, the family transfer lot, a 50' wide ingress/egress easement will be re-established<sup>1</sup> that will travel over the Residue and Lot 2A, the family transfer lot, and terminate in a cul-de-sac at Lot 2B, the administrative subdivision lot. This manner of obtaining access to Lots 2A and 2B will create a private street that effectively extends the existing private street known as Eskridges Lane. Eskridges Lane joins State Route 748 700.45' from the residue lot. There are no current plans to develop Lot 2B.

### **Justification**

The private street to private street waiver is warranted because:

1. Eskridges Lane serves the existing 6.0037 acre Residue lot and a right of way across the Residue provides access to the 15.0712 acre lot. The existing 700.45' private street, known as Eskridges Lane, already serves as access to the Applicant's existing two parcels from the end of the state maintained road (Route 748); therefore, currently there is no additional burden on this private street. If and when Lot 2B is built on, only one additional residence will be accessed over the newly created private street for which this waiver is sought.
2. At the corner of the Applicants' property the right of way makes an approximate 90 degree right turn and travels 497.55' in, along and through, Applicants' residue parcel, then travels 339.39' in, along and through Applicants' family transfer parcel (Lot 2A) before it terminates in a cul-

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<sup>1</sup> An identical 50' wide easement currently exists but will be vacated, as directed by the Department of Community Development, as part of the transformation of the subject lots from two to three lots.

de-sac at Applicants' administrative subdivision parcel (Lot 2B).

3. There are currently two houses on the subject property and a significant portion (terminating on Lot 2A at its boundary with Lot 2B) of the right of way requested here already serves the two houses; therefore, only a minimal extension of the roadway will be required.
4. Given that the 3 lots are stacked behind one another with frontage only on Eskridges Lane, no alternative for providing access to the family transfer and administrative subdivision lots is reasonably feasible and no plausible alternatives exist.
5. Failure to modify the private street to private street limitation would place an unreasonable restriction on the use of the Applicant's property.
6. The only parcels impacted by the private street to private street waiver are properties owned by the Applicant and these properties are not unreasonably affected.
7. Applicant/Owners have already been granted a  $\geq 1000'$  street length waiver.

### **Conclusion**

Based on the information and analysis provided, the Applicant/Owners respectfully request that the Board approve this private street to private street waiver application in order that the administrative subdivision and family transfer lots may be created.

